

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 53

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 72-1323A, IDAHO CODE, TO DEFINE
3 A TERM; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF
4 A NEW SECTION 72-1330A, IDAHO CODE, TO DEFINE A TERM; AMENDING SEC-
5 TION 72-1351A, IDAHO CODE, TO REVISE PROVISIONS REGARDING TRANSFERS
6 OF EMPLOYER EXPERIENCE AND ASSIGNMENT OF RATES AND TO MAKE TECHNICAL
7 CORRECTIONS; AMENDING SECTION 72-1366, IDAHO CODE, TO REVISE PROVI-
8 SIONS REGARDING VIOLATIONS BY CLAIMANTS SEEKING BENEFITS; AMENDING
9 SECTION 72-1369, IDAHO CODE, TO REVISE A PROVISION REGARDING A CERTAIN
10 DISQUALIFICATION PERIOD; AMENDING SECTION 72-1371, IDAHO CODE, TO RE-
11 VISE PROVISIONS REGARDING CRIMINAL PENALTIES FOR KNOWING OR WILLFUL
12 MISREPRESENTATIONS; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE
13 ADDITION OF A NEW SECTION 72-1371A, IDAHO CODE, TO ESTABLISH PROVISIONS
14 REGARDING THE CRIME OF EMPLOYMENT SECURITY IDENTITY THEFT; AND DECLAR-
15 ING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Chapter 13, Title 72, Idaho Code, be, and the same is
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
20 ignated as Section 72-1323A, Idaho Code, and to read as follows:

21 72-1323A. KNOWINGLY DEFINED. As used in this chapter, "knowing" or
22 "knowingly" means having actual knowledge of or acting with deliberate igno-
23 rance of, or reckless disregard for, the prohibition involved.

24 SECTION 2. That Chapter 13, Title 72, Idaho Code, be, and the same is
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
26 ignated as Section 72-1330A, Idaho Code, and to read as follows:

27 72-1330A. WILLFUL DEFINED. (1) As used in this chapter, "willful" or
28 "willfully" means the making of a statement where:

29 (a) The person knew the statement to be false or acted with deliberate
30 ignorance of, or reckless disregard for, the truth of the matter; or

31 (b) The person failed to disclose a material fact that the person knew
32 or should have known was required to be disclosed.

33 (2) To be willful, an act must be intentional, not accidental. No proof
34 of specific intent to defraud or violate the law is required.

35 SECTION 3. That Section 72-1351A, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 72-1351A. MANDATORY TRANSFERS OF EXPERIENCE RATING ACCOUNTS AND FED-
38 ERAL CONFORMITY PROVISIONS REGARDING TRANSFERS OF EXPERIENCE AND ASSIGNMENT

1 OF RATES. Notwithstanding any other provision of this chapter, the following
2 shall apply regarding transfers of experience and assignment of rates:

3 (1) (a) If a covered employer transfers its trade or business, or a por-
4 tion thereof, to another employer, whether or not a covered employer
5 within the meaning of section 72-1315, Idaho Code, and, at the time of
6 the transfer, there is substantially common ownership, management or
7 control of the two (2) employers, then the experience rating account
8 attributable to the transferred trade or business shall be transferred
9 to the employer to whom such business is so transferred. The rates of
10 both employers shall be recalculated using the methods provided in sec-
11 tion 72-1351(5)(b) and either (c)(i) or (c)(ii), Idaho Code. Whenever
12 such mandatory transfer involves only a portion of the experience rat-
13 ing record, and the predecessor or successor employers fail within ten
14 (10) days after notice to supply the required payroll information, the
15 transfer may be based on estimates of the allocable payrolls.

16 (b) If, following a transfer of experience under paragraph (a) of this
17 subsection, the director determines that a substantial purpose of the
18 transfer of the trade or business was to obtain a reduced liability for
19 contributions, then the experience rating accounts of the employers in-
20 volved shall be combined into a single account and a single rate shall be
21 assigned to such account.

22 (2) Whenever a person who is not a covered employer under this chapter
23 at the time such person acquires the trade or business of a covered employer,
24 the experience rating account of the acquired business shall not be trans-
25 ferred to such person if the director finds that such person acquired the
26 business primarily for the purpose of obtaining a lower rate of contribu-
27 tions. Instead, such person shall be assigned the standard rate for new
28 employers under section 72-1350, Idaho Code. In determining whether the
29 trade or business was acquired primarily for the purpose of obtaining a lower
30 rate of contributions, the director shall use objective factors which may
31 include, but are not limited to, the cost of acquiring the business, whether
32 the person continued the business enterprise of the acquired business, how
33 long such business enterprise was continued, or whether a substantial number
34 of new employees were hired for performance of duties unrelated to the busi-
35 ness activity conducted prior to acquisition.

36 (3) (a) It shall be a violation of this section if a person:

37 (i) Willfully makes any false statement to the department ~~when~~
38 ~~the maker knows the statement to be false or acts with deliberate~~
39 ~~ignorance of or reckless disregard for the truth of the matter or~~
40 ~~willfully fails to disclose a material fact to the department in~~
41 ~~connection with the transfer of a trade or business or the assign-~~
42 ~~ment of a contribution rate or experience rate;~~

43 (ii) Knowingly prepare any false or antedated report, form,
44 book, paper, record, written instrument, or other matter or thing
45 in connection with the transfer of a trade or business with the
46 intent to submit it or allow it to be submitted to the department as
47 genuine or true;

48 (iii) Knowingly violates or attempts to violate subsection (1) or
49 (2) of this section or any other provision of this chapter related

1 to determining the assignment of a contribution rate or an experi-
2 ence rate; or

3 (iv) Knowingly advises another person in a way that results in a
4 violation or an attempted violation of subsection (1) or (2) of
5 this section or any other provision of this chapter related to de-
6 termining the assignment of a contribution rate or an experience
7 rate.

8 (b) If a person commits any of the acts described in paragraph (a) of
9 this subsection, the person shall be subject to the following penal-
10 ties:

11 (i) If the person is a covered employer, a civil money penalty of
12 ten percent (10%) of such person's taxable wages for the four (4)
13 completed consecutive quarters preceding the violation shall be
14 imposed for such year and said penalty shall be deposited in the
15 state employment security administrative and reimbursement fund
16 as established by section 72-1348, Idaho Code.

17 (ii) If the person is not a covered employer, such person shall
18 be subject to a civil money penalty of not more than five thousand
19 dollars (\$5,000) for each violation. Any such penalty shall be de-
20 posited in the state employment security administrative and reim-
21 bursement fund as established by section 72-1348, Idaho Code.

22 (4) Every person who ~~knowingly willfully~~ makes any false statement to
23 the department or ~~knowingly willfully~~ fails to disclose a material fact to
24 the department in connection with the transfer of a trade or business, or
25 knowingly prepares any false or antedated report, form, book, paper, record,
26 written instrument, or other matter or thing in connection with the transfer
27 of a trade or business with the intent to submit it or allow it to be submit-
28 ted to the department as genuine or true, or knowingly violates or attempts
29 to violate subsection (1) or (2) of this section or any other provision of
30 this chapter related to determining the assignment of a contribution rate or
31 an experience rate, or knowingly advises another person to act in a way that
32 results in a violation or an attempted violation of subsection (1) or (2) of
33 this section or any other provision of this chapter related to determining
34 the assignment of a contribution rate or an experience rate, shall be guilty
35 of a felony punishable as provided in section 18-112, Idaho Code.

36 (5) For purposes of this section:

37 (a) An employer's experience rating account shall consist of the actual
38 contribution, benefit and taxable payroll experience of the employer
39 and any amounts due from the employer under this chapter. When a trans-
40 ferred experience rating account includes amounts due from the employer
41 under this chapter, both the predecessor employer and the successor em-
42 ployer shall be jointly and severally liable for those amounts.

43 ~~(b) "Knowingly" means having actual knowledge of or acting with delib-~~
44 ~~erate ignorance of or reckless disregard for the prohibition involved.~~

45 ~~(e) (b)~~ "Person" has the meaning given such term by section 7701 (a) (1)
46 of the Internal Revenue Code of 1986 (26 U.S.C. 7701 (a) (1)).

47 ~~(d) (c)~~ A "transfer of a trade or business" occurs whenever a person in
48 any manner acquires or succeeds to all or a portion of a trade or busi-
49 ness. Factors the department may consider when determining whether a

1 transfer of a trade or business has occurred include, but are not lim-
 2 ited to, the following:

3 (i) Whether the successor continued the business enterprise of
 4 the acquired business;

5 (ii) Whether the successor purchased, leased or assumed ma-
 6 chinery and manufacturing equipment, office equipment, business
 7 premises, the business or corporate name, inventories, a covenant
 8 not to compete or a list of customers;

9 (iii) Continuity of business relationships with third parties
 10 such as vendors, suppliers and subcontractors;

11 (iv) A transfer of ~~good will~~ goodwill;

12 (v) A transfer of accounts receivable;

13 (vi) Possession and use of the predecessor's sales correspon-
 14 dence; and

15 (vii) Whether the employees remained the same.

16 ~~(e)~~ (d) "Trade or business" includes, but is not limited to, the em-
 17 ployer's workforce. The transfer of some or all of an employer's
 18 workforce to another employer shall be considered a transfer of a
 19 trade or business when, as the result of such transfer, the transfer-
 20 ring employer no longer performs trade or business with respect to the
 21 transferred workforce, and such trade or business is performed by the
 22 employer to whom the workforce is transferred.

23 ~~(f)~~ (e) "Violates or attempts to violate" includes, but is not limited
 24 to, intent to evade, misrepresentation or willful nondisclosure.

25 (6) The director shall establish procedures to identify the transfer or
 26 acquisition of a business for purposes of this section.

27 (7) This section shall be interpreted and applied in such a manner as to
 28 meet the minimum requirements contained in any guidance or regulations is-
 29 sued by the United States department of labor.

30 (8) Administrative determinations issued pursuant to this section
 31 shall become final unless, within fourteen (14) days after notice as pro-
 32 vided in section 72-1368(5), Idaho Code, an appeal is filed with the depart-
 33 ment in accordance with the department's rules. Appeal proceedings shall be
 34 in accordance with the provisions of section 72-1361, Idaho Code.

35 SECTION 4. That Section 72-1366, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility
 38 conditions of a benefit claimant are that:

39 (1) The claimant shall have made a claim for benefits and provided all
 40 necessary information pertinent to eligibility.

41 (2) The claimant shall have registered for work and thereafter reported
 42 to a job service office or other agency in a manner prescribed by the direc-
 43 tor.

44 (3) The claimant shall have met the minimum wage requirements in his
 45 base period as provided in section 72-1367, Idaho Code.

46 (4) (a) During the whole of any week with respect to which he claims ben-
 47 efits or credit to his waiting period, the claimant was:

48 (i) Able to work, available for suitable work, and seeking work by
 49 conducting five (5) work search actions per week; provided, how-

1 ever, that no claimant shall be considered ineligible for failure
2 to comply with the provisions of this subsection if:

3 1. Such failure is due to a claimant's illness or disabili-
4 tity of no more than four (4) weeks that arises after filing
5 a claim, provided that during such illness or disability,
6 the claimant does not refuse or miss suitable work that
7 would have provided wages greater than one-half (1/2) of the
8 claimant's weekly benefit amount; or

9 2. Such failure is due to compelling personal circum-
10 stances, provided that such failure does not exceed a minor
11 portion of the claimant's workweek and during which time
12 the claimant does not refuse or miss suitable work that
13 would have provided wages greater than one-half (1/2) of the
14 claimant's weekly benefit amount; and

15 (ii) Living in a state, territory, or country that is included in
16 the interstate benefit payment plan or that is a party to an agree-
17 ment with the United States or the director with respect to unem-
18 ployment insurance.

19 (b) An action shall be considered an acceptable work search action pur-
20 suant to paragraph (a) of this subsection if it consists of one (1) or
21 more of the following actions in any week:

22 (i) Completing an online or in-person job search workshop;

23 (ii) Completing a job search assessment, including but not lim-
24 ited to a personality, skills, or interests assessment;

25 (iii) Completing career direction research or work such as a job
26 search plan or job search counseling;

27 (iv) Completing job search branding and marketing activities such
28 as completing a resume, cover letter, master application, eleva-
29 tor pitch, LinkedIn profile, or uploading a completed resume to a
30 job board allowing visibility to employers;

31 (v) Completing an online or in-person mock interview;

32 (vi) Taking a civil service exam;

33 (vii) Submitting a resume to an employer;

34 (viii) Completing and submitting a job application to an employer;

35 (ix) Attending and completing an interview or skills test with an
36 employer; or

37 (x) Attending a job fair.

38 (c) If a claimant who is enrolled in an approved job training course
39 pursuant to subsection (8) of this section fails to attend or otherwise
40 participate in the job training course during any week with respect to
41 which he claims benefits or credit to his waiting period, the claimant
42 shall be ineligible for that week if he was not able to work nor avail-
43 able for suitable work, to be determined as follows: The claimant shall
44 be ineligible unless he is making satisfactory progress in the training
45 and his failure to attend or otherwise participate was due to:

46 (i) The claimant's illness or disability that occurred after he
47 had filed a claim and the claimant missed fewer than one-half (1/2)
48 of the classes available to him that week; or

1 (ii) Compelling personal circumstances, provided that the
2 claimant missed fewer than one-half (1/2) of the classes available
3 to him that week.

4 (d) A claimant shall not be denied regular unemployment benefits under
5 any provision of this chapter relating to availability for work, active
6 search for work or refusal to accept work solely because the claimant is
7 seeking only part-time work if the department determines that a major-
8 ity of the weeks of work in the claimant's base period were for less than
9 full-time work. For the purpose of this subsection, "seeking only part-
10 time work" is defined as seeking work that has comparable hours to the
11 claimant's part-time work experience in the base period, except that a
12 claimant must be available for at least twenty (20) hours of work per
13 week.

14 (5) The claimant's unemployment is not due to the claimant voluntar-
15 ily leaving employment without good cause connected with the claimant's em-
16 ployment or because of the claimant's discharge for misconduct in connection
17 with the claimant's employment. The requirement that good cause for a vol-
18 untary leaving of employment be in connection with employment does not apply
19 and good cause is shown where a claimant demonstrates that:

20 (a) (i) The leaving was necessary to protect the claimant or any
21 minor child of the claimant from domestic violence or the leaving
22 was due to domestic violence that caused the claimant to rea-
23 sonably believe that the claimant's continued employment would
24 jeopardize the safety of the claimant or any minor child of the
25 claimant; and

26 (ii) The claimant made all reasonable efforts to preserve the em-
27 ployment; or

28 (b) The claimant is a military spouse who voluntarily left the
29 claimant's most recent employment to relocate with the claimant's
30 spouse who, because of a permanent change of station orders, was re-
31 quired to move to a location from which the commute to the claimant's
32 most recent employment was impractical, but only if, before leav-
33 ing, the claimant took reasonable actions to maintain the employment
34 relationship through accommodation discussions with the claimant's
35 employer.

36 (c) The following definitions apply to this subsection:

37 (i) "Domestic violence" is as defined in section 39-6303, Idaho
38 Code, and also includes the crime of stalking in the second degree
39 pursuant to section 18-7906, Idaho Code;

40 (ii) "Military spouse" means the spouse of a member of the armed
41 forces of the United States or a reserve component of the armed
42 forces of the United States stationed in this state in accordance
43 with military orders or stationed in this state before a reassign-
44 ment to duties outside this state; and

45 (iii) "Permanent change of station orders" means the assignment,
46 reassignment, or transfer of a member of the armed forces of the
47 United States or a reserve component of the armed forces of the
48 United States from the member's present duty station or location
49 without return to the previous duty station or location.

1 (6) (a) The claimant's unemployment is not due to his failure without
2 good cause to apply for available suitable work or to accept suitable
3 work within seven (7) days of when it is offered to him, unless a con-
4 dition specified in subsection (8) of this section applies or the job
5 offered does not constitute suitable employment pursuant to the provi-
6 sions of subsection (9) of this section. The longer a claimant has been
7 unemployed, the more willing he must be to seek other types of work and
8 accept work at a lower rate of pay. Failure to appear for a previously
9 scheduled job interview without notifying the employer of the need to
10 cancel or reschedule shall constitute a failure to apply for suitable
11 work for that week.

12 (b) The department shall establish an email address and web portal that
13 allows employers to report suspected violations of this subsection. As
14 part of its regular communication with employers, the department shall
15 at least annually inform employers of the email address and web portal
16 described in this subsection and the mechanism to report suspected vio-
17 lations.

18 (c) For the purposes of paragraph (a) of this subsection, a good cause
19 reason for not applying for available and suitable work or responding to
20 an offer of suitable employment shall be found only if the claimant is
21 ill, injured, or delayed by reason of an accident or medical emergency
22 involving the claimant or a member of the claimant's immediate family.

23 (7) In determining whether or not work is suitable for an individual,
24 the degree of risk involved to his health, safety, morals, physical fitness,
25 experience, training, past earnings, length of unemployment and prospects
26 for obtaining local employment in his customary occupation, the distance of
27 the work from his residence, and other pertinent factors shall be consid-
28 ered. No employment shall be deemed suitable and benefits shall not be de-
29 nied to any otherwise eligible individual for refusing to accept new work or
30 to hold himself available for work under any of the following conditions:

31 (a) If the vacancy of the position offered is due directly to a strike,
32 lockout, or other labor dispute;

33 (b) If the wages, hours, or other conditions of the work offered are
34 below those prevailing for similar work in the locality of the work of-
35 fered;

36 (c) If, as a condition of being employed, the individual would be re-
37 quired to join a company union or to resign from or refrain from joining
38 any bona fide labor organization.

39 (8) No claimant who is otherwise eligible shall be denied benefits for
40 any week due to an inability to comply with the requirements contained in
41 subsections (4) (a) (i) and (6) of this section if:

42 (a) The claimant is a participant in a program sponsored by title I of
43 the workforce innovation and opportunity act (29 U.S.C. 3101 et seq., as
44 amended) and attends a job training course under that program; or

45 (b) The claimant attends a job training course authorized pursuant to
46 the provisions of section 236(a) (1) of the trade act of 1974 or the North
47 American free trade agreement implementation act.

48 (c) The claimant lacks skills to compete in the labor market and attends
49 a job training course with the approval of the director. The director
50 may approve job training courses that meet the following criteria:

1 (i) The purpose of the job training is to teach the claimant
2 skills that will enhance the claimant's opportunities for employ-
3 ment; and

4 (ii) The job training can be completed within two (2) years, ex-
5 cept that this requirement may be waived pursuant to rules that the
6 director may prescribe.

7 (9) No claimant who is otherwise eligible shall be denied benefits
8 under subsection (5) of this section for leaving employment to attend job
9 training pursuant to subsection (8) of this section, provided that the
10 claimant obtained the employment after enrollment in or during scheduled
11 breaks in the job training course or that the employment was not suitable.
12 For purposes of this subsection, the term "suitable employment" means work
13 of a substantially equal or higher skill level than the individual's past
14 employment and wages for such work are no less than eighty percent (80%) of
15 the average weekly wage in the individual's past employment.

16 (10) A claimant shall not be eligible to receive benefits for any week
17 with respect to which it is found that his unemployment is due to a labor dis-
18 pute; provided, that this subsection shall not apply if it is shown that:

19 (a) The claimant is not participating, financing, aiding, abetting, or
20 directly interested in the labor dispute; and

21 (b) The claimant does not belong to a grade or class of workers with mem-
22 bers who are employed at the premises at which the labor dispute occurs
23 and who are participating in or directly interested in the dispute.

24 (11) A claimant shall not be entitled to benefits for any week with re-
25 spect to which or a part of which he has received or is seeking benefits un-
26 der an unemployment insurance law of another state or of the United States;
27 provided, that if the appropriate agency of such other state or of the United
28 States shall finally determine that he is not entitled to such unemployment
29 compensation or insurance benefits, he shall not by the provisions of this
30 subsection be denied benefits. For purposes of this section, a law of the
31 United States providing any payments of any type and in any amounts for pe-
32 riods of unemployment due to involuntary unemployment shall be considered an
33 unemployment insurance law of the United States.

34 ~~(12) A claimant shall not be entitled to benefits for a period of fifty-~~
35 ~~two (52) weeks if it is determined that he has willfully made a false state-~~
36 ~~ment or willfully failed to report a material fact in order to obtain bene-~~
37 ~~fits.~~

38 (12) (a) Any claimant who willfully makes a false statement or willfully
39 fails to disclose a material fact in order to obtain benefits shall be
40 ineligible for benefits.

41 (b) If it is determined that a claimant has violated the provisions of
42 this subsection, such claimant shall be disqualified from receiving
43 benefits for a period of: fifty-two (52) weeks for the first violation;
44 one hundred four (104) weeks for a second violation; and fifty-two (52)
45 weeks multiplied by the total number of violations for a third or sub-
46 sequent violation. The period of disqualification shall commence the
47 week the determination is issued. The claimant shall also be ineligible
48 for waiting week credit and shall repay any sums received for any week
49 for which the claimant received waiting week credit or benefits as a
50 result of having willfully made a false statement or willfully failed

1 to report a material fact. The claimant shall also be ineligible for
2 waiting week credit or benefits for any week in which he owes the de-
3 partment an overpayment, civil penalty, or interest resulting from a
4 determination that he willfully made a false statement or willfully
5 failed to report a material fact. For purposes of disqualifications for
6 subsequent violations pursuant to this subsection, violations occur-
7 ring within a single benefit year may be counted as one (1) violation for
8 purposes of enhanced penalties.

9 (13) A claimant shall not be entitled to benefits if his principal occu-
10 pation is self-employment.

11 (14) A claimant who has been found ineligible for benefits under the
12 provisions of subsection (5), (6), (7) or (9) of this section shall reestab-
13 lish his eligibility by having obtained bona fide work and received wages
14 therefor in an amount of at least fourteen (14) times his weekly benefit
15 amount.

16 (15) Benefits based on service in employment defined in sections
17 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on
18 the same terms and subject to the same conditions as benefits payable on the
19 basis of other service subject to this act.

20 (a) If the services performed during one-half (1/2) or more of any con-
21 tract period by an individual for an educational institution as defined
22 in section 72-1322B, Idaho Code, are in an instructional, research, or
23 principal administrative capacity, all the services shall be deemed to
24 be in such capacity.

25 (b) If the services performed during less than one-half (1/2) of any
26 contract period by an individual for an educational institution are in
27 an instructional, research, or principal administrative capacity, none
28 of the services shall be deemed to be in such capacity.

29 (c) As used in this section, "contract period" means the entire period
30 for which the individual contracts to perform services, pursuant to the
31 terms of the contract.

32 (16) No claimant is eligible to receive benefits in two (2) successive
33 benefit years unless, after the beginning of the first benefit year during
34 which he received benefits, he performed service and earned an amount equal
35 to no less than six (6) times the weekly benefit amount established during
36 the first benefit year.

37 (17) (a) Benefits based on wages earned for services performed in an
38 instructional, research, or principal administrative capacity for an
39 educational institution shall not be paid for any week of unemployment
40 commencing during the period between two (2) successive academic years,
41 or during a similar period between two (2) terms whether or not succes-
42 sive, or during a period of paid sabbatical leave provided for in the
43 individual's contract, to any individual who performs such services in
44 the first academic year (or term) and has a contract to perform services
45 in any such capacity for any educational institution in the second aca-
46 demic year or term or has been given reasonable assurance that such a
47 contract will be offered.

48 (b) Benefits based on wages earned for services performed in any other
49 capacity for an educational institution shall not be paid to any indi-
50 vidual for any week that commences during a period between two (2) suc-

1 cessive school years or terms if the individual performs such services
2 in the first school year or term and there is a contract or reasonable
3 assurance that the individual will perform such services in the second
4 school year or term. If benefits are denied to any individual under this
5 paragraph and the individual was not offered an opportunity to perform
6 such services for the educational institution for the second academic
7 year or term, the individual shall be entitled to a retroactive payment
8 of benefits for each week for which the individual filed a timely claim
9 for benefits and for which benefits were denied solely by reason of this
10 paragraph.

11 (c) With respect to any services described in paragraphs (a) and (b)
12 of this subsection, benefits shall not be paid nor waiting week credit
13 given to an individual for wages earned for services for any week that
14 commences during an established and customary vacation period or holi-
15 day recess if the individual performed the services in the period imme-
16 diately before the vacation period or holiday recess and there is a rea-
17 sonable assurance the individual will perform such services in the pe-
18 riod immediately following such vacation period or holiday recess.

19 (d) With respect to any services described in paragraphs (a) and (b) of
20 this subsection, benefits shall not be payable on the basis of services
21 in any capacities specified in paragraphs (a), (b) and (c) of this sub-
22 section to any individual who performed such services in an educational
23 institution while in the employ of an educational service agency. For
24 purposes of this paragraph, the term "educational service agency" means
25 a governmental entity that is established and operated exclusively for
26 the purpose of providing such services to one (1) or more educational
27 institutions.

28 (18) Benefits shall not be payable on the basis of services that sub-
29 stantially consist of participating in sports or athletic events or training
30 or preparing to participate for any week that commences during the period be-
31 tween two (2) successive sport seasons (or similar periods) if the individ-
32 ual performed services in the first season (or similar period) and there is
33 a reasonable assurance that the individual will perform such services in the
34 later of such season (or similar period).

35 (19) (a) Benefits shall not be payable on the basis of services per-
36 formed by an alien unless the alien was lawfully admitted for permanent
37 residence at the time such services were performed, was lawfully
38 present for purposes of performing such services, or was permanently
39 residing in the United States under color of law at the time the ser-
40 vices were performed (including an alien who was lawfully present in
41 the United States as a result of the application of the provisions of
42 sections 207 and 208 or section 212(d) (5) of the immigration and nation-
43 ality act).

44 (b) Any data or information required of individuals applying for bene-
45 fits to determine eligibility under this subsection shall be uniformly
46 required from all applicants for benefits.

47 (c) A decision to deny benefits under this subsection must be based on a
48 preponderance of the evidence.

49 (20) An individual who has been determined to be likely to exhaust regu-
50 lar benefits and to need reemployment services pursuant to a profiling sys-

1 tem established by the director must participate in those reemployment ser-
2 vices, unless:

3 (a) The individual has completed such services; or

4 (b) There is justifiable cause, as determined by the director, for the
5 claimant's failure to participate in such services.

6 (21) (a) A claimant:

7 (i) Who has been assigned to work for one (1) or more customers of
8 a staffing service; and

9 (ii) Who, at the time of hire by the staffing service, signed a
10 written notice informing him that completion or termination of an
11 assignment for a customer would not, of itself, terminate the em-
12 ployment relationship with the staffing service;

13 will not be considered unemployed upon completion or termination of an
14 assignment until such time as he contacts the staffing service to deter-
15 mine if further suitable work is available. If the claimant:

16 1. Contacts the staffing service and refuses a suitable work
17 assignment that is offered to him at that time, he will be
18 considered to have voluntarily quit that employment; or

19 2. Contacts the staffing service and the service does not
20 have a suitable work assignment for him, he will be consid-
21 ered unemployed due to a lack of work; or

22 3. Accepts new employment without first contacting the
23 staffing service for additional work, he will be considered
24 to have voluntarily quit employment with the staffing ser-
25 vice.

26 (b) For the purposes of this subsection, the term "staffing service"
27 means any person who assigns individuals to work for its customers and
28 includes but is not limited to professional employers as defined in
29 chapter 24, title 44, Idaho Code, and the employers of temporary employ-
30 ees as defined in section 44-2403 (7), Idaho Code.

31 (22) (a) A claimant who is otherwise eligible for regular benefits as
32 defined in section 72-1367A(1) (e), Idaho Code, shall be eligible for
33 training extension benefits if the department determines that all of
34 the following criteria are met:

35 (i) The claimant is unemployed;

36 (ii) The claimant has exhausted all rights to regular unem-
37 ployment benefits as defined in section 72-1367A(1) (e), Idaho
38 Code, and all rights to extended benefits as defined in section
39 72-1367A(1) (f), Idaho Code, and all rights to benefits under sec-
40 tion 2002 (increase in unemployment compensation benefits) of
41 division B, title II, the assistance for unemployed workers and
42 struggling families act, of the American recovery and reinvest-
43 ment act of 2009, P.L. 111-5, as enacted on February 17, 2009;

44 (iii) The claimant is enrolled in a training program approved by
45 the department or in a job training program authorized under the
46 workforce innovation and opportunity act; except that the train-
47 ing program must prepare the claimant for entry into a high-demand
48 occupation if the department determines that the claimant separ-
49 ated from a declining occupation or has been involuntarily and
50 indefinitely separated from employment as a result of a permanent

1 reduction of operations at the claimant's place of employment.
2 For the purposes of this subsection, a "declining occupation"
3 is one where there is a lack of sufficient current demand in the
4 claimant's labor market area for the occupational skills for which
5 the claimant is qualified by training and experience or current
6 physical or mental capacity and the lack of employment opportuni-
7 ties is expected to continue for an extended period of time, or the
8 claimant's occupation is one for which there is a seasonal vari-
9 ation in demand in the labor market and the claimant has no other
10 skills for which there is current demand. For the purposes of this
11 subsection, a "high-demand occupation" is an occupation in a labor
12 market area where work opportunities are available and qualified
13 applicants are lacking as determined by the use of available labor
14 market information;

15 (iv) The claimant is making satisfactory progress to complete the
16 training as determined by the department; and

17 (v) The claimant is not receiving similar stipends or other
18 training allowances for nontraining costs. For the purposes of
19 this subsection, "similar stipend" means an amount provided under
20 a program with similar aims, such as providing training to in-
21 crease employability, and in approximately the same amounts.

22 (b) The weekly training extension benefit amount shall equal the
23 claimant's weekly benefit amount for the most recent benefit year less
24 any deductible income as determined by the provisions of this chapter.
25 The total amount of training extension benefits payable to a claimant
26 shall be equal to twenty-six (26) times the claimant's average weekly
27 benefit amount for the most recent benefit year. A claimant who is
28 receiving training extension benefits shall not be denied training ex-
29 tension benefits due to the application of subsections (4) (a) (i) and
30 (6) of this section, and an employer's account shall not be charged for
31 training extension benefits paid to the claimant.

32 SECTION 5. That Section 72-1369, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 72-1369. OVERPAYMENTS, CIVIL PENALTIES AND INTEREST -- COLLECTION AND
35 WAIVER. (1) Any person who received benefits to which he was not entitled un-
36 der the provisions of this chapter or under an unemployment insurance law of
37 any state or of the federal government shall be liable to repay the benefits,
38 and the benefits shall, for the purpose of this chapter, be considered to be
39 overpayments.

40 (2) Civil penalties. The director shall assess the following monetary
41 penalties for each determination in which the claimant is found to have made
42 a false statement, misrepresentation, or failed to report a material fact to
43 the department:

44 (a) Twenty-five percent (25%) of any resulting overpayment for the
45 first determination;

46 (b) Fifty percent (50%) of any resulting overpayment for the second de-
47 termination; and

48 (c) One hundred percent (100%) of any resulting overpayment for the
49 third and any subsequent determination.

1 (3) Any overpayment, civil penalty and/or interest that has not been
2 repaid may, in addition to or alternatively to any other method of collection
3 prescribed in this chapter, including the creation of a lien as provided by
4 section 72-1360, Idaho Code, be collected with interest thereon at the rate
5 prescribed in section 72-1360(2), Idaho Code. The director may also file a
6 civil action in the name of the state of Idaho. In bringing such civil ac-
7 tions for the collection of overpayments, penalties and interest, the di-
8 rector shall have all the rights and remedies provided by the laws of this
9 state, and any person adjudged liable in such civil action for any overpay-
10 ments shall pay the costs of such action. A civil action filed pursuant to
11 this subsection shall be commenced within five (5) years from the date of
12 the final determination establishing liability to repay. Any judgment ob-
13 tained pursuant to this section shall, upon compliance with the requirements
14 of chapter 19, title 45, Idaho Code, become a lien of the same type, duration
15 and priority as if it were created pursuant to section 72-1360, Idaho Code.

16 (4) Collection of overpayments and civil penalties.

17 (a) Overpayments, other than those resulting from a false state-
18 ment, misrepresentation, or failure to report a material fact by the
19 claimant, that have not been repaid or collected may, at the discretion
20 of the director, be deducted from any future benefits payable to the
21 claimant under the provisions of this chapter. Such overpayments not
22 recovered within five (5) years from the date of the final determination
23 establishing liability to repay may be deemed uncollectible.

24 (b) Overpayments resulting from a false statement, misrepresentation,
25 or failure to report a material fact by the claimant that have not been
26 recovered within eight (8) years from the date of the final determina-
27 tion establishing liability to repay may be deemed uncollectible.

28 (c) The civil penalty assessed pursuant to subsection (2) of this sec-
29 tion shall be paid as follows:

30 (i) An amount totaling fifteen percent (15%) of the overpayment
31 shall be paid into the employment security fund created in section
32 72-1346, Idaho Code; and

33 (ii) Any additional amounts collected shall be paid into the em-
34 ployment security administrative and reimbursement fund created
35 in section 72-1348, Idaho Code.

36 (5) The director may waive the requirement to repay an overpayment,
37 other than one resulting from a false statement, misrepresentation, or fail-
38 ure to report a material fact by the claimant, and interest thereon, if:

39 (a) The benefit payments were made solely as a result of department er-
40 ror or inadvertence and made to a claimant who could not reasonably have
41 been expected to recognize the error; or

42 (b) Such payments were made solely as a result of an employer misre-
43 porting wages earned in a claimant's base period and made to a claimant
44 who could not reasonably have been expected to recognize an error in the
45 wages reported.

46 (6) Neither the director nor any of his agents or employees shall be li-
47 able for benefits paid to persons not entitled to the same under the provi-
48 sions of this chapter if it appears that such payments have been made in good
49 faith and that ordinary care and diligence have been used in the determina-

1 tion of the validity of the claim or claims under which such benefits have
2 been paid.

3 (7) The director shall have discretion to compromise any or all of an
4 overpayment, civil penalty, interest, or ~~fifty-two (52) week~~ disqualifi-
5 cation assessed under subsections (1) and (2) of this section and section
6 72-1366(12), Idaho Code, when the director finds it is in the best interest
7 of the department.

8 SECTION 6. That Section 72-1371, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 72-1371. MISREPRESENTATION TO OBTAIN BENEFITS OR TO PREVENT PAYMENTS
11 OR TO EVADE CONTRIBUTION LIABILITY -- CRIMINAL PENALTY. ~~(1) The making of a~~
12 ~~false statement when the maker knows the statement to be false, or the wil-~~
13 ~~ful failure to disclose a material fact in order to obtain or increase any~~
14 ~~benefit or other payment under this chapter or under an unemployment insur-~~
15 ~~ance law of any state or of the federal government, either for the benefit~~
16 ~~of the maker or for any other person, is hereby declared to be a felony. Any~~
17 person who willfully makes a false statement or willfully fails to disclose
18 a material fact in order to obtain or increase any benefit or other payment
19 pursuant to this chapter or an unemployment insurance law of any state or the
20 federal government, either for the benefit of the maker or for any other per-
21 son, shall be guilty of:

22 (a) A misdemeanor punishable as provided in section 18-113, Idaho Code,
23 if the amount of benefits the person obtained or attempted to obtain in
24 violation of the provisions of this subsection is one thousand dollars
25 (\$1,000) or less; or

26 (b) A felony punishable as provided in section 18-112, Idaho Code, if
27 the amount of benefits the person obtained or attempted to obtain in vi-
28 olation of the provisions of this subsection exceeds one thousand dol-
29 lars (\$1,000).

30 (2) Each false statement or failure to disclose a material fact is a
31 separate offense. When a series of violations pursuant to subsection (1)
32 of this section occurs during a single benefit year, the violations may be
33 aggregated into one (1) or more counts and the sum of the value of all of the
34 overpayments in the count shall be considered in determining whether the
35 value of overpayments exceeds one thousand dollars (\$1,000).

36 ~~(2)~~ (3) The willful making by an employer or any officer or agent of
37 an employer or any other person of a false statement or representation when
38 the maker knows the statement or representation to be false, or the willful
39 failure to disclose a material fact to prevent or reduce the payment of ben-
40 efits to any individual entitled thereto or to avoid becoming or remaining
41 a covered employer or to avoid or reduce any contribution or other payment
42 required from a covered employer under this chapter or under any unemploy-
43 ment insurance law of any state or of the federal government, or the willful
44 knowing failure or refusal to make such contributions or other payment or to
45 furnish any such reports required under this chapter is hereby declared to be
46 a misdemeanor.

47 (4) Nothing in this section shall preclude prosecution under any other
48 provisions of law.

1 SECTION 7. That Chapter 13, Title 72, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 72-1371A, Idaho Code, and to read as follows:

4 72-1371A. EMPLOYMENT SECURITY IDENTITY THEFT -- CRIMINAL PENALTY.

5 (1) No person shall knowingly transfer, possess, or use, without lawful au-
6 thority, an identity that is not the person's own with the intent to commit,
7 aid, or abet any violation of this chapter. A violation of this subsection is
8 a felony punishable as provided in section 18-112, Idaho Code.

9 (2) As used in this section, "identity" means any name, number, or data
10 transmission that may be used, alone or in conjunction with any other infor-
11 mation, to identify a specific individual or entity, including without limi-
12 tation:

13 (a) Name, social security number, date of birth, official government-
14 issued driver's license or identification number, government passport
15 number, or employer or taxpayer identification number;

16 (b) Unique electronic identification number, personal identification
17 number, address, account number, or routing code; or

18 (c) Telecommunication identification information or access device.

19 (3) (a) Any person or entity whose identity has been transferred, pos-
20 sessed, or used in violation of the provisions of subsection (1) of this
21 section shall be entitled to restitution pursuant to section 19-5304,
22 Idaho Code.

23 (b) The court shall order a person convicted of violating the provi-
24 sions of subsection (1) of this section to pay as additional restitution
25 a penalty of no less than one thousand dollars (\$1,000) to each person
26 whose identity was misused pursuant to subsection (1) of this section.

27 SECTION 8. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after
29 July 1, 2025.